

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MADELYN COLETTE AUTEN,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

GENE C. AUTEN, JR.,

Respondent-Appellant.

UNPUBLISHED

August 7, 2007

No. 275871

Roscommon Circuit Court

Family Division

LC No. 05-725371-NA

Before: Smolenski, P.J., and Fitzgerald and Kelly, JJ.

MEMORANDUM.

Respondent claims an appeal from the trial court's order terminating his parental rights to his daughter under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

We review a trial court's decision to terminate parental rights for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous when we are left with the firm and definite conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). To be clearly erroneous, a decision must be more than maybe or probably wrong. *Sours*, *supra*. If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review the trial court's decision regarding the child's best interests for clear error. *Id.* at 356-357.

We hold that the trial court did not clearly err in finding that petitioner established by clear and convincing evidence the existence of one or more statutory grounds for termination of respondent's parental rights. The evidence showed that the child was removed from respondent's custody as a result of respondent engaging in domestic violence in the child's presence.¹ Respondent consistently denied that his actions were wrong or that they negatively

¹ The child remained in the custody of her mother, against whom termination proceedings were
(continued...)

affected the child. Two psychologists testified that resumption of contact between respondent and the child would be detrimental to the child. The trial court did not clearly err in terminating respondent's parental rights based on findings that, given respondent's continued denials of wrongdoing, the child had been harmed by respondent's conduct and remained at risk of harm from respondent. *Sours, supra*.

Finally, the trial court did not clearly err in finding that the evidence did not establish that termination of respondent's parental rights was clearly not in the child's best interests. MCL 712A.19b(5).

Affirmed.

/s/ Michael R. Smolenski
/s/ E. Thomas Fitzgerald
/s/ Kirsten Frank Kelly

(...continued)

not brought.